

AMENDMENT TO H.R. 1401, AS REPORTED
OFFERED BY MR. RYUN OF KANSAS

At the end of title XXXI (page 453, after line 15),
insert the following new subtitle:

1 **Subtitle F—Department of Energy**
2 **Foreign Visitors Program Mora-**
3 **torium**

4 **SEC. 3181. SHORT TITLE.**

5 This subtitle may be cited as the “Department of En-
6 ergy Foreign Visitors Program Moratorium Act”.

7 **SEC. 3182. MORATORIUM ON FOREIGN VISITORS PROGRAM.**

8 (a) **MORATORIUM.**—Until otherwise provided by law,
9 the Secretary of Energy may not, during the foreign visi-
10 tors moratorium period, admit to any facility of a national
11 laboratory any individual who is a citizen of a nation that
12 is named on the current Department of Energy sensitive
13 countries list.

14 (b) **WAIVER AUTHORITY.**—(1) The Secretary of En-
15 ergy may waive the prohibition in subsection (a) on a
16 monthly basis with respect to specific individuals whose
17 admission to a national laboratory is determined by the
18 Secretary to be necessary for the national security of the
19 United States.

1 (2) On a monthly basis, but not later than the 15th
2 day of each month, the Secretary shall submit to the Com-
3 mittee on Armed Services of the Senate and Committee
4 on Armed Services of the House of Representatives a re-
5 port in writing providing notice of the waivers made in
6 the previous month. The report shall identify each individ-
7 ual for whom such a waiver was made and, with respect
8 to each such individual, provide a detailed justification for
9 the waiver and the Secretary's certification that the ad-
10 mission of that individual to a national laboratory is nec-
11 essary for the national security of the United States.

12 (3) The authority of the Secretary under paragraph
13 (1) may be delegated only to the Deputy Secretary of En-
14 ergy or an Assistant Secretary of Energy.

15 (c) FOREIGN VISITORS MORATORIUM PERIOD.—For
16 purposes of this section, the term “foreign visitors morato-
17 rium period” means the period beginning on the date of
18 the enactment of this Act and ending on the later of the
19 following:

20 (1) The date that is 2 years after the date of
21 the enactment of this Act.

22 (2) The date that is 90 days after the date on
23 which the Secretary of Energy, after consultation
24 with the Director of the Federal Bureau of Inves-
25 tigation, submits to the Committee on Armed Serv-

1 ices of the Senate and the Committee on Armed
2 Services of the House of Representatives a certifi-
3 cation in writing by the Secretary of each of the fol-
4 lowing:

5 (A) That the counterintelligence program
6 required by section 3183 is fully implemented,
7 and fully operating, at each of the national lab-
8 oratories.

9 (B) That such counterintelligence program
10 complies with the requirements of Presidential
11 Decision Directive number 61.

12 (C) That the Secretary is in compliance
13 with the provisions of subsection (b).

14 **SEC. 3183. COUNTERINTELLIGENCE PROGRAM.**

15 (a) ESTABLISHMENT AT EACH LABORATORY.—The
16 Secretary of Energy shall establish a counterintelligence
17 program at each of the national laboratories. The counter-
18 intelligence program at each such laboratory shall have a
19 full-time staff assigned to counterintelligence functions at
20 that laboratory, including such personnel from other agen-
21 cies as may be approved by the Secretary. The counter-
22 intelligence program at each such laboratory shall be
23 under the direction of, and shall report to, the Director
24 of the Office of Counterintelligence of the Department of
25 Energy.

1 (b) INVESTIGATION OF PAST SECURITY
2 BREACHES.—The Secretary shall require that the coun-
3 terintelligence program at each laboratory include a spe-
4 cific plan pursuant to which the Director of the Office of
5 Counterintelligence of the Department of Energy shall—

6 (1) investigate any breaches of security discov-
7 ered after the date of the enactment of this Act that
8 occurred at that laboratory before the establishment
9 of the counterintelligence program at that labora-
10 tory; and

11 (2) study the extent to which a breach of secu-
12 rity may have occurred before the establishment of
13 the counterintelligence program at that laboratory
14 with respect to a classified project at that laboratory
15 by the admittance to that laboratory, for purposes of
16 a nonclassified project, of a citizen of a foreign na-
17 tion.

18 (c) REQUIRED CHECKS ON ALL NON-CLEARED INDI-
19 VIDUALS.—(1) The Secretary, acting through the Director
20 of the Office of Counterintelligence of the Department of
21 Energy, shall ensure the following:

22 (A) That before any non-cleared individual is
23 allowed to enter any facility of a national laboratory,
24 a security investigation known as an “indices check”
25 is carried out with respect to that individual.

1 (B) That before any non-cleared individual is
2 allowed to enter a classified facility of a national lab-
3 oratory or to work for more than 15 days in any 30-
4 day period in any facility of a national laboratory,
5 a security investigation known as a “background
6 check” is carried out with respect to that individual.

7 (2) NON-CLEARED INDIVIDUAL.—For purposes of
8 paragraph (1), a non-cleared individual is any of the fol-
9 lowing:

10 (A) An individual who is a citizen of a nation
11 that is named on the current Department of Energy
12 sensitive countries list.

13 (B) An individual who has not been investigated
14 by the United States, or by a foreign nation with
15 which the United States has an appropriate reciproc-
16 ity agreement, in a manner at least as comprehen-
17 sive as the investigation required for the issuance of
18 a security clearance at the level designated as “Se-
19 cret”.

20 **SEC. 3184. EXCEPTION TO MORATORIUM FOR CERTAIN**
21 **GRANDFATHERED INDIVIDUALS.**

22 (a) GRANDFATHERED INDIVIDUALS.—Notwithstand-
23 ing section 3182(a), the Secretary may, during the foreign
24 visitors moratorium period described section 3182(e),
25 admit to a facility of a national laboratory an individual

1 who is a citizen of a nation that is named on the current
2 Department of Energy sensitive countries list, for a period
3 of not more than 3 months for the purposes of transitional
4 work, if—

5 (1) that individual was regularly admitted to
6 that facility before that period for purposes of a
7 project or series of projects;

8 (2) the continued admittance of that individual
9 to that facility during that period is important to
10 that project or series of projects; and

11 (3) the admittance is carried out in accordance
12 with section 3183(e).

13 (b) REPORT ON GRANDFATHERED INDIVIDUALS.—

14 Not later than 30 days after the date of the enactment
15 of this Act, the Secretary shall submit to the Committee
16 on Armed Services of the Senate and Committee on
17 Armed Services of the House of Representatives a report
18 on each individual admitted to a facility of a national lab-
19 oratory under subsection (a). The report shall identify
20 each such individual and, with respect to each such indi-
21 vidual, provide a detailed justification for such admittance
22 and the Secretary's certification that such admission was
23 carried out in accordance with section 3183(e).

24 **SEC. 3185. DEFINITIONS.**

25 For purposes of this subtitle:

1 (1) The term “national laboratory” means any
2 of the following:

3 (A) The Lawrence Livermore National
4 Laboratory, Livermore, California.

5 (B) The Los Alamos National Laboratory,
6 Los Alamos, New Mexico.

7 (C) The Sandia National Laboratories, Al-
8 buquerque, New Mexico, and Livermore, Cali-
9 fornia.

10 (2) The term “sensitive countries list” means
11 the list prescribed by the Secretary of Energy known
12 as the Department of Energy List of Sensitive
13 Countries.

14 (3) The term “indices check” means using an
15 individual’s name, date of birth, and place of birth
16 to review government intelligence and investigative
17 agencies databases for suspected ties to foreign in-
18 telligence services or terrorist groups.